



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,646	05/09/2006	Amjad Soomro	853463.467USPC	1797
38106 7590 09/08/2009 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVENUE, SUITE 5400 SEATTLE, WA 98104-7092				
EXAMINER				
LINDSEY, MATTHEW S				
ART UNIT		PAPER NUMBER		
2451				
MAIL DATE		DELIVERY MODE		
09/08/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**ATTACHMENT TO ADVISORY ACTION**

1. Claims 1-23 have been finally rejected. For the reasons stated below, the rejection is maintained.

***Response to Arguments***

2. Applicant's arguments filed 26 August 2009 have been fully considered but they are not persuasive.
3. Applicant argues: Meier does not disclose "said network component being informed of said scheduled request by a field of a traffic specification format being set to a first value, said network component being informed of said unscheduled request by said field of said traffic specification being set to a second value different from said first value" (pg 8, full paragraph 2).

Examiner respectfully disagrees. Meier disclosed the use of a bit, or a field of a traffic specification format, to indicate if the message is scheduled or unscheduled (see for example, Meier, the table below [470], specifically Bit 14). This bit in Meier indicates whether the message containing the bit is scheduled or unscheduled. By combining

Benveniste with the teachings of Meier to include support for this bit, the combination disclosed the above limitation.

4. Applicant further argues: "the unscheduled field of Meier appears to indicate whether the advertisement is a periodic advertisement or a requested advertisement. This is not the same thing as a field of traffic specification format which indicates whether a received client request is scheduled or an unscheduled request" (pg 9, first full paragraph, lines 6-9).

Examiner respectfully disagrees. Benveniste was cited for disclosing the client request (see for example, Benveniste, [0026], lines 1-9). Benveniste did not explicitly state that the client request included a field for indicating whether the request was scheduled or unscheduled. Meier was used in combination to disclose a field indicating that the request is scheduled or unscheduled (Meier, table below [0470], Bit 14). By combining the references, the client request of Benveniste can include the field of Meier indicating whether or not the request is scheduled or not.

Furthermore, in Meier, the periodic advertisement (in which the unscheduled bit would be set to off) is a scheduled message because the message occurs at an interval according to a schedule. An advertisement (in which the unscheduled bit would be set to on) made in reply to an unscheduled request for an advertisement is an unscheduled advertisement message because there is no schedule to adhere to for sending the message, and it is unknown when a request for an advertisement will occur. An advertisement in reply to an unscheduled request for the advertisement is still an

unscheduled advertisement message. Therefore, the unscheduled bit indicates if the advertisement message is scheduled or unscheduled. Thus, by combining the references, the client request of Benveniste can include the unscheduled bit to indicate whether or not the client request is scheduled or unscheduled.

5. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (see pg 10, lines 5-6), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. Applicant further argues: "This reasoning also appears to be contrary to the principles of operation of Meier.... If such requests are not honored before the next scheduled advertisement message from an SCM, the process of discovery would not be speed up" (pg 10, lines 8-12).

Examiner respectfully disagrees. The motivation to combine the references applies to the combined references, not to Meier in particular. Therefore, the request would be the client request of Benveniste, and servicing scheduled requests takes precedence over unscheduled requests. Furthermore, in Meier the period for scheduled

advertisements may be any period chosen by an implementer of the system. Thus it is clear to one of ordinary skill in the art that a period can vary widely depending on the specific needs of the system. In an example where the period is 24 hours or longer it is unlikely that unscheduled requests will be received near the time of a scheduled request.

7. Applicant further argues: "The Examiner also appears to content that Benveniste already knows whether a client request is for scheduled or unscheduled service when it is received. Assuming the Examiner's interpretation of Benveniste is correct, there would be no motivation to modify Benveniste to include such a field in client requests" (pg 10, lines 12-15).

Examiner respectfully disagrees. While Beneveniste disclosed knowledge of a scheduled or unscheduled request (see for example, [0008] and [0009]), Benveniste does not explicitly state that the request includes a field indicating if it is scheduled or unscheduled. Therefore, by combining the references, the unscheduled flag of Meier can indicate whether the client request of Benveniste is scheduled or unscheduled. The system can save time and processing power by looking at the one bit flag in the request, rather than having to compare the time the request is received and the senders' identity to a predefined schedule in order to determine if the request is scheduled or unscheduled.

8. Applicant further argues dependent claims 2-7, 9-17, 19-21 and 23 are allowable because of their dependence on independent claims 1, 8, 18 and 22. Examiner respectfully disagrees, see arguments above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW S. LINDSEY whose telephone number is (571)270-3811. The examiner can normally be reached on Mon-Thurs 7-5, Fridays 7-12.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.